IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION No. 18664 of 2005

Between:

D.Sreenivasulu

..... PETITIONER

AND

The Joint Collector,

Kurnool Distrit and 2 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus, declaring the action of the 2nd respondent in suspending the authorization of the dealership of the petitioner in respect of Shop No.1 of Nagarur village, Kurnool District, without any further enquiry, by his proceedings in Rc.M.No.674/2005, dated 26.07.2005, as illegal and arbitrary, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner questions the impugned order dated 26.07.2005 on the ground that the impugned order has been passed as a measure of punishment and it is a substantial order without issuing any notice, without following the principles of natural justice and without giving any opportunity to the petitioner. It is further stated that the impugned order has been passed basing on the report of the 3rd respondent dated 22.06.2005.

Admittedly, no show cause notice has been issued before passing the impugned order and only basing on the report of the 3rd respondent, the dealership of the petitioner has been suspended. While issuing notice before admission, this Court made the following order on 25.08.2005:

> "The petitioner's authorization as a fair price shop dealer No.1 of Nagarur village, Aspari Mandal, Adoni Division was suspended by the order of the second respondent, dated 26.07.2005 which records that on the basis of a report of the Mandal Revenue Officer, Aspari, it is proved that the petitioner had issued less quantity of essential commodities and had contravened the provisions of the relevant control order.
>
> The petitioner alleges that no opportunity was afforded to him by the Mandal Revenue Officer at the so-called enquiry and that a copy of the report of the Mandal Revenue Officer was also not supplied to him. The order of suspension does not record that it is a suspension pending enquiry. On a holistic reading of the order the conclusion appears legitimately compelling that it is a substantive order of suspension, after a conclusion as to the guilt of the petitioner.
>
> On the analysis, *prima facie*, the order of the second respondent appears to be perverse and clearly a negation of the principles of natural justice and contrary to the minimum discipline of quasi-judicial procedure. The order is therefore, suspended. The second respondent shall file an affidavit as to the allegations in the writ petition by 12.09.2005, failing which the second respondent shall be present in

this Court on 19.09.2005. A copy of this order be furnished to the petitioner by Monday."

Counter has been filed by the respondents reiterating the same contentions raised in the impugned order. It is further stated that an appeal has been filed before the 1st respondent against the impugned order, which is pending consideration.

In view of the facts and circumstances of the case, I am of the opinion that the impugned order itself has been passed without giving any prior notice to the petitioner and it is not an order made pending enquiry, and it is a final order. No final order of suspension of dealership of a dealer can be passed without issuing any prior notice and without affording an opportunity to the delinquent. Therefore, the impugned order is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned order dated 26.07.2005. No order as to costs.

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V.ESWARAIAH,J

Dated: 18.11.2005

Dsr